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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. JOHN FOX, Defendant.	CASE NO. CR 16-00281 JD **STIPULATION REGARDING DEFENDANT'S ELECTRONIC DEVICES, BANK RECORDS, AND PRIVACY ACT AND [PROPOSED] ORDER** Court: Hon. James Donato

The United States of America, the defendant, and the trustee of defendant's Chapter 7 bankruptcy estate, Marlene Weinstein, through her attorney Charles Maher, stipulate as follows:

Defendant has pleaded guilty in this case to wire fraud in connection with a Ponzi scheme he ran through his wine business, Premier Cru. Dkt. 8. Defendant has also filed a Chapter 7 bankruptcy petition. *In re John Eugene Fox*, No. 16-40340 (N.D. Cal. Bankr.). Marlene Weinstein was appointed trustee of defendant's bankruptcy estate, and is represented by Charles Maher.

As part of its investigation, the government obtained two categories of records that the trustee believes may be useful to investigating defendant's bankruptcy estate and tracking down funds for defendant's personal creditors. First, the government obtained bank records for defendant's various personal and corporate bank accounts. Second, the government obtained, from defendant, personal and corporate electronic devices that defendant used during the course of his fraud. These devices contain numerous personal and business records of Mr. Fox. The government has made digital images of these devices.

The trustee has requested that the government provide access to copies of the bank records, which are voluminous, and permit the trustee to copy records that will be of relevance to the bankruptcy case. The trustee has also requested that the government provide the devices to the trustee when the government has determined the devices are no longer necessary for its criminal case, or, in the alternative, to produce copies of the digital images of the devices.

The bank records and records contained on the devices are covered by the Privacy Act of 1974, 5 U.S.C. § 552 *et seq.*, and disclosure of their contents by the government is limited by this statute. The government can provide access to records to the trustee with the consent of those whose information is contained within these records, 5 U.S.C. § 552a(b), or with a court order, 5 U.S.C. § 552a(b)(11).

Defendant has provided his consent to the release of these records, and the parties and the trustee jointly request that this Court issue an order permitting the government to provide access or production of these records to the trustee and her agents. There is good cause to do so, as these records may show where defendant's funds went, and thus may aid the trustee's attempts to obtain relief for defendant's creditors, most of whom are the victims of defendant's fraud scheme. Moreover, the parties jointly request that the trustee's use of these records be limited to lawful purposes consistent with the trustee's role in defendant's Chapter 7 proceeding.

IT IS SO AGREED AND STIPULATED.

Dated: November 17, 2016

___________/s/_____________
BENJAMIN KINGSLEY
Assistant United States Attorney

__________/s/__________
ROBERT BREAKSTONE
Attorney for Defendant

_________/s/_____________________________
CHARLES MAHER
Attorney for Chapter 7 Trustee Marlene Weinstein

[PROPOSED] ORDER

Pursuant to the above stipulation, the government is permitted to provide Marlene Weinstein, the trustee in defendant's Chapter 7 bankruptcy proceeding; her counsel; and any of her other authorized agents, with access to or copies of defendant's personal and corporate bank records in its possession. The government is further permitted to provide counsel for the trustee with defendant's personal or corporate electronic devices, or digital images of the contents of those same devices. The trustee's use of these records is limited to lawful purposes consistent with the trustee's role in defendant's Chapter 7 proceeding.

IT IS SO ORDERED.

Dated: ________________________________

HON. JAMES DONATO
UNITED STATES DISTRICT JUDGE